MONTANA LEGISLATIVE HISTORY

Chapter 518 19 83

Bill H 465 S _____ Original bill & history ~~xx~~ C
introduced bill is "MISSING"

H. Committee on BUSINESS & INDUSTRY

Hearing Date(s) 1/31 X C
+EXEC ACTION
_____ ____C
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Date Out _____ ____C

S. Committee on BUSINESS & INDUSTRY

Hearing Date(s) 3/14 X C
& EXEC ACTION
_____ ____C
_____ ____C
_____ ____C

Did this bill originate in an interim committee? ____Yes X No

Committee _____ Report _____

HB 464 -- HEMSTAD, GAGE -- TO ADOPT A VARIABLE CONTRACT LAW AUTHORIZING LIFE INSURANCE COMPANIES TO ESTABLISH SEPARATE ACCOUNTS TO PROVIDE FOR VARIABLE LIFE INSURANCE POLICIES AND VARIABLE ANNUITY CONTRACTS
BY REQUEST OF: THE DEPARTMENT OF INSURANCE

INTRODUCED: 01/24/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 01/24/83
HEARING: 1/31/83
REPORT: 01/31/83, DO PASS, AS AMENDED
2ND READING: 02/02/83, DO PASS AYES: 96; NAYS: 0
3RD READING: 02/04/83, DO PASS AYES: 92; NAYS: 4

TRANSMITTED TO SENATE: 02/05/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 02/05/83
HEARING: 3/14/83
REPORT: 03/14/83, BE CONCURRED IN
ON MOTION, 3/15/83, THAT THE BILL BE TAKEN FROM 2ND READING AND REREFERRED TO THE COMMITTEE ON BUSINESS & INDUSTRY. MOTION PASSED UNANIMOUSLY.
REPORT: 3/23/83, BE NOT CONCURRED IN
BILL KILLED: 3/23/83

HB 465 -- HEMSTAD, GAGE -- TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO INSURANCE; CHANGING FORM FILING REQUIREMENTS; CLARIFYING PROVISIONS RELATING TO REINSURANCE AGREEMENTS AND BULK REINSURANCE; PROVIDING THAT INLAND MARINE INSURANCE IS TAXED AT 3/4 OF 1 PERCENT OF NET PREMIUMS WRITTEN; CLARIFYING THAT SELF-GOVERNING LOCAL GOVERNMENTS MAY NOT TAX OR LICENSE INSURERS OR AGENTS; DELETING THE REQUIREMENT FOR FILING SUPPORTING DATA ON RATE CHANGES BY INSURERS, RATING ORGANIZATIONS, AND ADVISORY ORGANIZATIONS; DEFINING A "MANAGING GENERAL AGENT" AND PROVIDING FOR LICENSURE; CLARIFYING WHEN INSURANCE INFORMATION MAY BE OBTAINED ABOUT AN INDIVIDUAL; CLARIFYING THE POLICY AMOUNT THAT MUST BE OFFERED ON TERMINATION OF A GROUP LIFE POLICY; AND PROVIDING THAT A POLICY CLAUSE ON CONFORMITY WITH STATE STATUTES BE MANDATORY; AMENDING ....
BY REQUEST OF: THE MONTANA DEPARTMENT OF INSURANCE

INTRODUCED: 01/24/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 01/24/83
HEARING: 1/31/83
REPORT: 02/04/83, DO PASS, AS AMENDED
2ND READING: 02/07/83, DO PASS AYES: 77; NAYS: 10
3RD READING: 02/09/83, DO PASS AYES: 92; NAYS: 5

TRANSMITTED TO SENATE: 2/9/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 02/10/83
HEARING: 3/14/83
REPORT: 03/21/83, BE CONCURRED IN, AS AMENDED
2ND READING: 03/23/83 AYES: 49; NAYS: 0
ON MOTION, 3/23/83, THAT THE BILL BE SEGREGATED FROM THE COMMITTEE OF THE WHOLE REPORT. MOTION PASSED UNANIMOUSLY.
2ND READING: 3/24/83, BE CONCURRED IN, AS AMENDED AYES: 49; NAYS: 0
3RD READING: 03/28/83 AYES: 45; NAYS: 2

RETURNED TO HOUSE WITH AMENDMENTS: 3/28/83
2ND READING: 04/01/83, BE CONCURRED IN AYES: 83; NAYS: 0
3RD READING: 04/04/83, BE CONCURRED IN AYES: 93; NAYS: 0

TRANSMITTED TO GOVERNOR: 04/13/83
SIGNED: 04/15/83, CHAPTER 518

HB 466 -- EUDAILY, LORY -- LIMITING THE DEFINITION OF "TRAVEL TRAILER" FOR PURPOSES OF THE FEE IN LIEU OF TAX TO TRAILERS 45 FEET OR LESS IN LENGTH AND 8 FEET OR LESS IN WIDTH ....

INTRODUCED: 01/24/83
REFERRED TO COMMITTEE ON TAXATION: 01/24/83
HEARING: 2/1/83
REPORT: 02/04/83, DO PASS, AS AMENDED
2ND READING: 02/07/83, DO PASS AYES: 86; NAYS: 0
3RD READING: 02/09/83, DO PASS AYES: 97; NAYS: 0

TRANSMITTED TO SENATE: 2/9/83
REFERRED TO COMMITTEE ON TAXATION: 02/10/83
HEARING: 3/7/83
REPORT: 03/09/83, BE CONCURRED IN, AS AMENDED
2ND READING: 03/11/83 AYES: 49; NAYS: 0
3RD READING: 03/14/83 AYES: 49; NAYS: 0

RETURNED TO HOUSE WITH AMENDMENTS: 03/14/83
2ND READING: 03/31/83, BE CONCURRED IN AYES: 84; NAYS: 1
3RD READING: 04/01/83, BE CONCURRED IN AYES: 86; NAYS: 0

TRANSMITTED TO GOVERNOR: 04/11/83
SIGNED: 04/14/83, CHAPTER 488

HB 467 -- J. JENSEN, SAUNDERS -- TO GENERALLY REVISE THE INQUEST STATUTES; AMENDING

INTRODUCED: 01/24/83
REFERRED TO COMMITTEE ON JUDICIARY: 01/24/83
HEARING: 2/4/83
REPORT: 02/14/83, DO PASS, AS AMENDED
2ND READING: 02/16/83, DO PASS, AS AMENDED AYES: 93; NAYS: 0
3RD READING: 02/19/83, DO PASS AYES: 98; NAYS: 0

TRANSMITTED TO SENATE: 2/19/83
REFERRED TO COMMITTEE ON JUDICIARY: 02/21/83
HEARING: 3/18/83
REPORT: 03/19/83, BE CONCURRED IN
2ND READING: 03/21/83 AYES: 48; NAYS: 0
3RD READING: 03/23/83 AYES: 49; NAYS: 1

RETURNED TO HOUSE: 03/23/83

TRANSMITTED TO GOVERNOR: 3/30/83
SIGNED: 4/2/83, CHAPTER 343

HB 468 -- SWIFT, PHILLIPS, HANNAH, ET AL. -- TO SPEED THE PROCESS OF FINAL CRIMINAL CONVICTIONS BY REQUIRING THE DISMISSAL OF FELONY CHARGES NOT PROSECUTED IN A TIMELY MANNER, BY REDUCING THE TIME REQUIRED FOR CERTAIN ACTS TO BE TAKEN IN CRIMINAL APPEALS, BY SETTING A LIMIT OF 70 DAYS ON EXTENSIONS GRANTED BY THE SUPREME COURT, BY REQUIRING SANCTIONS TO BE IMPOSED BY THE SUPREME COURT WHEN A PARTY FAILS TO MEET A PROCEDURAL DEADLINE; AND BY ELIMINATING EXCEPTIONS TO THE WAIVER OF ISSUES NOT RAISED IN PETITIONS FOR POSTCONVICTION RELIEF; AMENDING

INTRODUCED: 01/24/83
REFERRED TO COMMITTEE ON JUDICIARY: 01/24/83
HEARING: 2/4/83

HOUSE BUSINESS & INDUSTRY COMMITTEE

Chairman, Rep. Jerry Metcalf, called the Business & Industry Committee to order on January 31, 1983, at 9:00 a.m. in Room 420 of the Capitol Building, Helena, Montana. All members present.

HOUSE BILL 498

REP. RAY PECK, District 8, sponsor, opened by saying this bill revises the laws regulating credit unions to allow them to meet losses from the sale of investments or securities from the regular reserve if the director of the department has previously approved such use of the regular reserve.

PROPONENTS:

JEFFRY KIRKLAND, Montana Credit Unions League, said this is a bill proposed by the Montana Credit Unions League and developed in consultation with the Commissioner of Financial Institutions, who is in charge of regulating their state-chartered credit unions. It provides the commissioner with a new "safety and soundness" tool rather than providing credit unions with any new authority. This bill gives the Director of the Department of Commerce the permissive authority on a case-by-case basis to allow credit unions to use their regular reserves to meet losses from the sale of investments or securities. (Exhibit #1)

REP. BACHINI, went on record as supporting HB 498.

OPPONENTS: none

QUESTIONS: none

HOUSE BILL 464

REP. ANDREA HEMSTAD, District 40, sponsor, opened by saying the Department of Insurance had requested her to sponsor this bill. It is a model of a National Association of Insurance Commissioners law. The states that have this bill have no problems with it. She said it's seen by many as a hedge against inflation.

PROPONENTS:

JAYNE MITCHELL, Attorney for the Montana Insurance Department, said the act provides for the issuance of variable life and annuity contracts and enables the Insurance Commissioner to establish certain guidelines for the regulation of such products. Thirty two states have adopted the NAIC model variable law or similar laws. Only a few states, including Montana, have no legislation on this subject. (Exhibit #2) She stated there was a typing error on Page 2 line 5 that should be amended to read "33-2-806".

OPPONENTS: NONE

QUESTIONS:

REP. KITSELMAN: Is this a NAIC requirement because of the securities that back this product? Doug James, Department of Insurance, said the exemption from securities covers flat rate securities and the exempt transaction which applies to salesmen, brokers, etc. applies to variable annuities. We would take a position of caution to say all insurance salesmen should be registered with us.
REP. WALLIN: Was this bill introduced in the Senate last year?
Ms. Mitchell: Yes as SB 331 and it was killed.

HOUSE BILL 465

REP. ANDREA HEMSTAD, District 40, sponsor, opened by saying this bill would generally revise the laws relating to insurance. It does a number of small amendments to the present law.

PROPONENTS:

JAYNE MITCHELL, Attorney for the Department of Insurance, said this is a "housekeeping bill" to amend certain statutes which were found inconsistent with other statutes and were troublesome to administer. It is also intended to correct an inadvertant change in the law which occurred during the 1981 session.

TERRY MEAGHER, Montana Insurance Department, said they have had trouble with companies "fronting" or "pooling" risks by meeting the minimum financial requirements, writing the risk and then he insures the entire amount in another company that is not licensed in Montana. We are trying to make the revocation or suspension of licenses for these offenses discretionary instead of mandatory. If they have re-insured 90% of their risks, we will look at it and then decide if we will hold a hearing. In 1981 the premium tax section 33-2-705 (4) was mistakenly amended to include inland marine. The loss to the State of Montana was $170,000. Prior to 1981, inland marine had been taxed at 2 3/4% of net premiums written. The 1981 amendment included inland marine to be taxed with wet marine at 3/4 of 1% of gross underwriting profit. The amendment will return the tax rate and tax base to the level they were at prior to the inadvertent change. Section 5 would give the commissioner the discretion to hold a hearing if he considers it necessary. It outlines the factors to be considered in deciding whether a hearing is necessary on reviewing bulk reinsurance agreements.

NORMA SEIFFERT, Montana Insurance Department, testified that companies try to get in under the Inland Marine definition and it has been very troublesome to their office and they would like it changed.

MS. MITCHELL: We need a committee amendment on this bill to change the inland marine tax from 3/4 of 1% to 2 3/4%. Do we need a fiscal note? Rep. Metcalf: Yes.

ROGER McGLENN, Independent Insurance Agents of Montana, said his organization would like to go on record as supporting this bill.

OPPONENTS: none

QUESTIONS:

REP. FABREGA: What does Inland Marine cover? Terry Meagher: Cargo and transportation by truck. Wet marine even covers jewelry insurance and wet cargo in ships. There is probably a higher risk and loss with wet marine.
REP. WALLIN: This would have quite an effect on the firemen's insurance. Is this money earmarked for this? Mr. Meagher: They would also get a portion of the premium tax developed for that line. It would be 2 3/4% of approximately $200,000 or maybe $6,000.
REP. HARPER: On page 12 you have a procedure where the commissioner can approve or disapprove a hearing. Wouldn't the Montana Administrative Procedures Act apply to these things? Ms. Mitchell: We fall under MAPA except we do have a specific hearing section. The factors in 33-1-701 are not meant to exempt the factors of MAPA, it's just to determine whether a hearing is necessary. Rep. Harper: Since you are not excluded from MAPA, you would have to meet the minimum requirements of it and this section would be invalid. Is there any reason this shouldn't be referenced to MAPA? Ms. Mitchell: This will just determine if a hearing is to be held. Rep. Harper: Under MAPA if 10% or 25 people ask for a hearing under the agency, you have to hold a hearing. Ms. Mitchell: I agree, we would have to hold one if it were determined.

EXECUTIVE SESSION:

HOUSE BILL 498

REP. LYBECK moved that HOUSE BILL 498 DO PASS.
Question: The motion carried by unanimous vote.

HOUSE BILL 464

REP. HARPER moved to amend page 2, line 5. Question: Carried unanimously. REP. FAGG moved passage of the Statement of Intent. Question: Carried unanimously. REP. WALLIN moved that HOUSE BILL 464 DO PASS AS AMENDED. Motion carried unanimously.

HOUSE BILL 465

REP. FABREGA moved the amendments on title, line 9 to strike 3/4 of 1% and insert 2 3/4%. Question: Carried unanimously.

REP. HARPER: On page 12 there is a problem. Every agency except the ones deleted out by MAPA must follow the requirements listed. Under this section, they say that one person can receive a hearing. Ten days cuts the requirement of MAPA in half. If they were given only 10 days notice in advance of a hearing, I think any decisions the commissioner makes could be deemed void. I would ask Jayne Mitchell to look at that and give us a recommendation.

HOUSE BILL 452

REP. ELLERD made the motion that HOUSE BILL 452 DO PASS AS AMENDED.
REP. METCALF: We eliminated the grandfather clause and added if out-of-state examiners come in they need to show equivalent licensure to purchase a license in Montana.
REP. HARPER: On page 4, line 15 - sub A, one of the requirements is that you engage in the occupation for at least 1 year. How can you do that without a license? I suggest we amend that.
REP. ELLERD: Is there any reason they should have a high school diploma? Rep. Metcalf: Yes.
Question:
The motion that HOUSE BILL 452 DO PASS AS AMENDED carried unanimously.
REP. KITSELMAN made the motion that the Statement of Intent do pass. Motion carried unanimously.

HOUSE BILL 147

REP. METCALF: The Senate now has HB 147 in a sub-committee and they would like the House to appoint a sub-committee to iron out the problems together. I will appoint Rep. Harper, Chairman, Rep. Nisbet and Rep. Kitselman to serve on that committee.

The hearing adjourned at 10:15 a.m.

J. Metcalf

REP. JERRY METCALF, CHAIRMAN

Linda Palmer

Linda Palmer, Secretary

STANDING COMMITTEE REPORT

January 31 83
..... 19 .....

MR. Speaker:

We, your committee on BUSINESS & INDUSTRY

having had under consideration HOUSE 465 Bill No.

first reading copy (white color)

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO INSURANCE; CHANGING FORM FILING REQUIREMENTS; CLARIFYING PROVISIONS RELATING TO REINSURANCE AGREEMENTS AND BULK REINSURANCE; PROVIDING THAT INLAND MARINE INSURANCE IS TAXES AT 3/4 OF 1 PERCENT OF NET PREMIUMS WRITTEN; CLARIFYING THAT SELF-GOVERNING LOCAL GOVERNMENTS MAY NOT TAX OR LICENSE INSURERS OR AGENTS; DELETING THE REQUIREMENT FOR FILING SUPPORTING DATA ON RATE CHANGES BY INSURERS, RATING ORGANIZATIONS, AND ADVISORY ORGANIZATIONS; DEFINING A "MANAGING GENERAL AGENT" AND PROVIDING FOR LICENSURE; CLARIFYING WHEN INSURANCE INFORMATION MAY BE OBTAINED ABOUT AN INDIVIDUAL; CLARIFYING THE POLICY AMOUNT THAT MUST BE OFFERED ON TERMINATION OF A GROUP LIFE POLICY;AND PROVIDING THAT A POLICY CLAUSE ON CONFORMITY WITH STATE STATUTES BE MANDATORY; AMENDING SECTIONS 33-1-501, 33-2-119, 33-2-705, 33-2-707, 33-2-1206, 33-16-203, 33-17-103, 33-17-103, 33-17-201, 33-19-304, 33-20-1210, AND 33-22-229, MCA."

Respectfully report as follows: That Bill No.

RESPECTFULLY REPORT AS FOLLOWS: THAT HOUSE BILL NO. 465

BE AMENDED AS FOLLOWS:

1. Title, line 9
   Following: "AT"
   Strike: "3/4 OF 1"
   Insert: "2 3/4"

AND AS AMENDED

DO PASS

STATE PUB. CO.
Helena, Mont.

JERRY METCALF Chairman.

COMMITTEE SECRETARY

VISITOR'S REGISTER

HOUSE B+I COMMITTEE

BILL HB 465 DATE 1-31-83

SPONSOR

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
Roger McGlenn	HELENA	IND INS AGENTS ASSN OF MT	✓	
Joyce Mitchell	Helena	Ins. Department	✓	
[illegible]	Helena	Mont Insur Dept	✓	
[illegible]	Helena	Mt Ins Dept	✓	
Joyce Waghorn	Helena	Mt Ins Dept	✓	
[illegible]	[illegible]	[illegible]		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

FORM CS-33

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

March 14, 1983

The meeting of the Business and Industry Committee was called to order by Chairman Allen Kolstad on March 14, 1983, at 10:05 a.m., in Room 404, State Capitol.

ROLL CALL: All members of the committee were present.

CONSIDERATION OF HOUSE BILL 670: An act to increase the fees for licensing of weighing devices and to provide a late renewal fee.

Representative Harrison Fagg stated this was by request of the Council on Management. It deals with setting scale charges and licensing fees for weighing devices. The last scale fee increase adjustment was in 1973. This will raise approximately the amount of money it costs to check these scales. It increases $66,661 per year in income.

PROPONENTS TO HOUSE BILL 670: Dave Evenson, representing the Council on Management, stated this bill is a result of management recommendations. He gave handouts to the Committee from the Council. (Exhibits 1 and 2)

Gary Delano, Bureau of Weights and Measures, stated they are in support of this bill.

There were no further proponents and no opponents.

QUESTIONS FROM THE COMMITTEE: Senator Goodover asked could you brief us on what this specifically refers to? Mr. Delano stated this relates to all scales that are used commercially in the State of Montana, livestock scales, grocery scales, coal mine scales, and others.

Senator Goodover asked people who have these scales do not file an annual filing? Mr. Delano stated it is a licensing fee that requires one test per year. If there is more testing required they will charge for it.

Senator Kolstad asked and this fiscal note was based on how many scales you tested this particular year? Mr. Delano stated yes.

Senator Kolstad asked do you feel there would be $66,661 at this time? Mr. Delano stated yes but it may change.

Senator Fuller asked for instance in Buttreys Foods for each scale it costs $5? Mr. Delano stated yes.

Senator Severson asked on the small scales you check them once a year? Mr. Delano stated yes. The law allows them to test them more if necessary.

Senator Goodover asked has the date been changed from March to July 1st? Do you have to check the scale before the fee is due? Mr. Delano stated yes, the license expires December 31st and the license is due January 1st, then they can be tested anytime of the year.

will just about cover their costs. They are a very small part of our operation.

Senator Goodover asked what is your reaction to the substitute bill proposed by the banks? Representative Fagg stated he is opposed to the action. You could make a change to handle all the problems. Line 20 after "fee" you could put in an amendment not exceeding a specific amount. The general fund amendment would then have to stay on. You could on line 18 after "trust company" put in "savings and loans and consumer loans" and then they would be setting the fee on all of these. These two types of amendments would seem to be the best for both parties. Mr. Alke stated I don't know how you can amend savings and loans and credit union laws.

Senator Goodover asked what about the first amendment? Mr. Alke stated as long as it is a general funded operation, I think that makes sense.

Senator Goodover asked that Les Alke work with Representative Fagg and come up with an amendment to make this bill fly. Representative Fagg stated he would be happy to. They could then come up with a compromise percentage.

The hearing was closed on House Bill 701.

CONSIDERATION OF HOUSE BILL 464: An act to adopt a variable contract law authorizing life insurance companies to establish separate accounts to provide for variable life insurance policies and variable annuity contracts.

Representative Andrea Hemstad stated Senator Gage had all her paperwork and testimony.

PROPONENTS TO HOUSE BILL 464: Jane Mitchell, Montana Insurance Department stated they support this bill. Her written testimony is attached to the minutes. (Exhibit 4) (Letter to Norma Seiffert from Daniel J. McCarthy. Exhibit 5)

There were no further proponents and no opponents.

The hearing was closed on House Bill 464.

ACTION ON HOUSE BILL 464: Senator Dover made the motion that House Bill 464 Be Concurred In. Senator Lee seconded the motion.

The committee voted, by voice vote, 8-2 with Senators Regan and Goodover voting no, that HOUSE BILL 464 BE CONCURRED IN.

CONSIDERATION OF HOUSE BILL 465: An act to generally revise and clarify the laws relating to insurance; changing form filing requirements; clarifying provisions relating to reinsurance agreements and bulk reinsurance; providing that Inland Marine Insurance is taxed at 2 3/4 percent of net premiums written; clarifying that self-governing local governments may not tax or license insurers or agents; deleting the requirement for filing supporting data on rate changes by insurers,

rating organizations, and advisory organizations; defining a "managing general agent" and providing for licensure; clarifying when insurance information may be obtained about an individual; clarifying the policy amount that must be offered on termination of a group life policy; and providing that a policy clause on conformity with state statutes be mandatory.

Representative Andrea Hemstad stated she was the sponsor of this bill.

PROPONENTS TO HOUSE BILL 465: Jayne Mitchell, Montana Insurance Department, stated they support this bill. Her written testimony is attached to the minutes. (Exhibit 6) She gave the committee a proposed amendment to this bill stating the reason this is necessary in Montana it has loose requirements for adjusters. (Exhibit 7) They do not need to be bonded. They prefer people hire an attorney if there is a claim settlement problem.

Lester H. Loble, II, American Council of Life Insurance, stated they support this bill with his proposed amendment. His written testimony is attached to the minutes. (Exhibit 8)

Roger McGlenn stated they rise in support of House Bill 465. They would oppose an amendment to take self-governing bodies out of the list prohibited from charging taxes and licensing insurors and their agents. They support the amendment offered by the Department of Public Adjustors.

Glen Drake, Health Insurers Association of America, stated they support the bill as amended by Mr. Loble and urge the adoption of the amendment.

Bill Verwolf, City of Helena, stated they support the bill in its entirety. They offered a proposed amendment to the bill. (Exhibit 9)

Al Thelen, City of Billings, stated they support the bill with an amendment to eliminate the restrictions that prohibits self-governing local government from imposing a tax on insurance companies. (Exhibit 10)

OPPONENTS TO HOUSE BILL 465: Glen Drake, American Insurance Association, stated the proposed amendment would remove the premption that the state has the right to tax the premium tax. If we accept this proposal we are going to have all the local governments filing premium taxes. The proposal as made would apply to all premiums. It would be disasterous to the public. He urged that the amendment not be adopted.

There were no further proponents nor opponents.

QUESTIONS FROM THE COMMITTEE: Senator Christiaens stated Mr. Drake has just testified in opposition to the premium tax. That is not what I heard you testify. Mr. Verwolf stated his understanding is the local governments do not have the authority to put a rate on the premiums. What we are saying is if we license these as a business we don't feel these businesses should be treated any differently than anyother business. Mr. Thelen stated in regard to the business license they have the option as to how they declare this. It is related to both issues. Our method

is related to the agent and he pays on that basis. He doesn't see where it would be treating any of them different.

Senator Goodover asked are you collecting the money now both in Helena and Billings? Has it altered the premiums at all? Has it gone up? Mr. Verwolf stated in Helena it might be undetectable up to 10 employees we charge $45. There would be very little impact. Mr. Thelen stated whether it affects premiums I can't answer that.

Senator Lee asked can we get the industry response to that? Mr. McGlenn stated he represents the agents. It would not affect them. Insurance unlike other professions are more mobile. We would be concerned if the entire section was struck. We have nothing to do with rates.

Senator Gage asked were these amendments offered in the House? Ms. Hemstad stated no.

Senator Christiaens asked can you tell me how managing agents were handled previously? Ms. Mitchell stated we just licensed them as an agent. That is why we put the amendment in.

Senator Christiaens asked who and what has been exluded in your investigation process? Ms. Mitchell stated that is kind of a privacy act. Last session they asked the Legislature to pass a privacy act to give information to consumers. This section can be best explained by showing you the code. Basically, last session it said that the insurance institutions could not divulge information unless the insurer asks the reasons. This would make them ask the questions. This would protect the consumer more because it requires that they ask the questions.

Senator Christiaens asked how would I as a consumer go about finding information that was reported on me on this type of situation? Ms. Mitchell stated you can demand it from the insurer.

Senator Christiaens asked are all types of insurance written investigated? Norma Seiffert stated yes for the most part.

Senator Gage asked do you also have a fee for doctors and lawyers offices? Mr. Verwolf stated yes they do. Their license fee covers everyone doing business in the city of Helena. This was enacted a little over a year ago.

Senator Severson stated I have always felt that an adjustor was an independent person. Can you clarify that? Ms. Mitchell stated it would be an independent adjustor to adjust for a fee. We have not permitted adjustors to contract out. As a consequence, the consumer is better served by hiring an attorney. If the adjustor works for a company then the company is responsible for his actions.

Senator Severson asked is this a change? Ms. Mitchell stated no, it is not a change.

Senator Fuller stated it seems to me that the responsible thing for all to do is set up some kind of public adjustor system. Mrs. Seiffert

stated we can do this on our own. We can do it for the people free of charge. Ms. Mitchell stated our law makes no provision for examining an adjustor. They have no recourse for these people. There is no way of policing them.

Senator Fuller asked in section 6 what you are doing is deleting the requirement? On what basis can you determine if the rate is inadequate? Ms. Mitchell stated county examination.

Senator Fuller asked aren't you deleting the authority of getting that data? Ms. Mitchell stated we can call the insurer.

Senator Lee took over for Senator Kolstad.

Senator Gage asked would amending section 4 clear out of this bill exceed the scope of this bill? Staff Attorney Greg Petesch stated you can always amend a section of the bill. You would have to amend the title also.

In closing, Representative Hemstad pointed out that the bill had no amendments in the House and under the way it was passed would increase revenue $223,000 in 1984 and $234,000 in 1985.

The hearing was closed on House Bill 465.

ACTION ON HOUSE BILL 465: Senator Fuller made the motion that the proposed amendments from the City of Helena and the City of Billings Be Adopted. Senator Regan seconded the motion.

Senator Dover stated he has problems with this.

Senator Lee stated there is some question whether they are legally able to assess these licenses in Helena and Billings. We are going against the original intent of the law. There is a question whether they can do it or not.

Senator Gage asked does the State of Montana assess a license against insurers? Staff Attorney Petesch stated there is a fee for becoming licensed. Most professions have that. Insurers do pay a license fee to the state right now.

Senator Regan stated I think there is a question of licensure but there is no question to set fees.

Staff Attorney Petesch stated if you strike this you are not doing away with it you are putting it back to the status quo.

Senator Lee stated if we strike section 4 in its entirety the language will remain the same. If you strike it there is a question whether you accomplished anything. This section existed before self-governing powers.

Senator Regan stated it is my understanding that attorneys enjoy a special status within the State that is not quite the same as anyother profession. Therefore, if the power to tax or levy a fee is challenged

by attorneys they will win that time but that does not mean that all other cases will follow. It would depend on the basis of the court ruling. They will not decide a constitutional issue if there is a way to resolve it otherwise.

Senator Lee asked why don't you strike the rest of the language out? Why are we just striking self-governing government? Mr. Thelen stated they have merged.

Senator Regan stated if we do not strike that section we have prempted the power of the court to resolve the issue. As long as the case has been filed we should wait until a decision is made. I think it is another reason for us to strike that section in its entirety.

Senator Regan amended Senator Fuller's motion to amend House Bill 465 by striking section 4 in its entirety, lines 11 through 22 and ask Staff Attorney Petesch to address anyother thing in the bill to bring it into conformity.

The Committee voted, by Roll Call Vote, 4-5 with Senators Dover, Gage, Goodover, Lee and Severson voting no. The motion failed.

Senator Regan made the motion that House Bill 465 Be Not Concurred In. Senator Christiaens seconded the motion.

The Committee voted 3-6 with Senators Boylan, Dover, Fuller, Gage, Lee and Severson voting no. The motion failed.

The Committee decided to pass consideration for the day.

ADJOURN: There being no further business, the meeting was adjourned at 11:10 a.m.

ALLEN C. KOLSTAD, CHAIRMAN

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ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

48th LEGISLATIVE SESSION -- 1983 DATE 3-14-83

NAME	PRESENT	ABSENT	EXCUSED
PAUL F. BOYLAN	✓		
B. F. CHRIS CHRISTIAENS	✓		
HAROLD L. DOVER	✓		
DAVID FULLER	✓		
DELWYN GAGE	✓		
PAT M. GOODOVER	✓		
GARY P. LEE, VICE CHAIRMAN	✓		
PAT REGAN	✓		
PAT M. SEVERSON	✓		
ALLEN C. KOLSTAD, CHAIRMAN	✓		

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3-14-83 House Bill No. 465 Time

NAME	YES	NO
PAUL F. BOYLAN	✓	
B. F. CHRIS CHRISTIAENS	✓	
HAROLD L. DOVER		✓
DAVID FULLER	✓	
DELWYN GAGE		✓
PAT M. GOODOVER		✓
GARY P. LEE, VICE CHAIRMAN		✓
PAT REGAN	✓	
PAT M. SEVERSON		✓
ALLEN C. KOLSTAD, CHAIRMAN		

Mimi Fancher
Secretary

GARY LEE, VICE-CHAIRMAN
Chairman

Motion: Amendment by Fuller (Regan) 4-5 Motion Failed.

(Include enough information on motion -- put with yellow copy of committee report.

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3-14-83 House Bill No. 465 Time _____

NAME	YES	NO
PAUL F. BOYLAN		✓
B. F. CHRIS CHRISTIAENS	✓	
HAROLD L. DOVER		✓
DAVID FULLER		✓
DELWYN GAGE		✓
PAT M. GOODOVER	✓	
GARY P. LEE, VICE CHAIRMAN		✓
PAT REGAN	✓	
PAT M. SEVERSON		✓
ALLEN C. KOLSTAD, CHAIRMAN		

Mimi Fancher
Secretary

GARY LEE, VICE-CHAIRMAN
Chairman

Motion: Do Not Concurred In.
3-6 Motion Failed

(Include enough information on motion -- put with yellow copy of committee report.

SUBMITTED BY: Jayne Mitchell, 3/14/83, EXHIBIT NO. 6

Testimony of the Montana Insurance Department
on House Bill 465

This act is a so called "housekeeping bill" to amend certain statutes which we have found to be inconsistent with other statutes and/or troublesome to administer. This housekeeping bill is also intended to correct an inadvertant change in the law which occurred during during the 1981 legislative session.

age 2, ines -9 Section 1. 33-1-501 - Filing and approval of forms. The section deletes an exemption from filing for "specifically rated inland marine risks." This exemption has been a source of problems for the department. The department has been unable to adequately define the terms "specially rated inland marine". Therefore, the companies have been claiming that this exclusion applies to a large range of policies which we feel it is in the public interest to have filed.

age 4, ines -25 Section 2. 33-2-119. An amendment to make revocation or suspension of an insurer's certificate of authority discretionary when the insurer has reinsured 90% of its risks in another insurer. This section was amended in 1981 to prevent fronting, in which an insurer fronted for, or reinsured its entire risk in, another company which did not meet our licensing requirements and which did not have a Montana certificate of authority. Using this process companies could circumvent compliance with Montana law. For example, in 1980, the Department discovered that a company had reinsured all its risks in an offshore Bermuda captive which was not licensed in Montana.

Because the 1981 law was mandatory and not discretionary, it affected legitimate and bonafide reinsurance agreements. The enactment of the law inadvertantly affected legitimate and bonafide reinsurance agreements. The Department then made the determination that any direct writer must retain at least 10% of the risks written.

At least one group did have a legitimate program of pooling its risks among the members and affiliates in the group. They had problems with the 10% requirement on that it was not always financially sound to retain at least 10% of each risk in some of the smaller companies. Because the law is mandatory and not discretionary, we are, under the present statute prohibiting a business practice which affects many legitimate companies and may in some cases be beneficial to Montana policyholders. Backing risks by more assets within a group is desirable in some cases. We need the discretion to evaluate each case and make a decision based on the particular facts involved.

Section 3. 33-2-705. Report on premiums and other consideration - tax. When the new definition of marine insurance was passed by the 1981 legislature the premium tax section 33-2-705(4) was mistakenly amended to include inland marine. Prior to 1981, inland marine had been taxed at 2 3/4% of net premiums written. The 1981 amendment included inland marine to be taxed with wet marine at 3/4 of 1% of gross underwriting profit. Therefore the tax rate and tax base are less than they were prior to 1981. This amendment is proposed to return the tax rate and tax base to the level they were at prior to the inadvertent change in 1981.

Section 4. 33-2-707. Pre-emption of taxing. Amendment to make the state of Montana's pre-emption of taxation in matters relating to insurance specifically applicable to self-governing local governments. This was made necessary by a recent Attorney General's Opinion which stated that the mere existence of a state statute pre-empting taxation of a profession or industry by a municipality or city does not necessarily prevent a self governing municipality from imposing such a tax. However the Attorney General did say a statute which made such a prohibition expressly applicable to self-governing municipalities would be applicable to such self-governing local governments.

Section 5. 33-2-1211. Bulk Reinsurance - Foreign or alien insurers. An amendment to make hearings on the approval of bulk reinsurance agreements of foreign or alien insurers discretionary. The Montana Insurance Department has the power to review bulk reinsurance agreements of foreign or alien insurers before they become effective. In many cases, the transaction is routine or has already been reviewed by another state. This amendment would give the commissioner the discretion to hold a hearing if he considers it necessary. It outlines the factors to be considered in deciding whether a hearing is necessary.

Section 6. 33-16-203. Rates filed. Amendment to delete the requirement that insurance companies file supporting data along with rates in the Insurance Commissioner's office. The Montana Insurance Department does not regulate rates unless they are excessive or inadequate. Further we do not have an actuarial staff person to evaluate the supporting data so the requirement that supporting data be filed simply results in unnecessary paper work.

Section 7. 33-17-102(1)(a) Amendment to clarify that adjusters act on behalf of the insurer. The Montana Insurance Department has never allowed the licensing of public adjusters who for a fee settle claims on behalf of consumers. We believe that members of the public are best served by having a licensed attorney, who can file suit if necessary, to settle claims on their behalf. An attorney would, in order to be licensed, have the minimum skills necessary to assist the consumer. Insurance companies hire adjusters on their behalf, but insurance companies have the expertise to evaluate the qualifications of the adjuster. This amendment simply clarifies existing departmental practice. Section 7 also provides a definition of managing general agent.

Section 8. 33-17-103, Section 9. 33-17-201. Amendment to clarify that persons acting as managing general agents must be licensed as agents and appointed by the insurers represented. Managing general

agents are independent contractors who hire, fire and train local agents. Many of them do some soliciting of insurance. Most are compensated on a commission basis, that is their commission is based on the volume of premium written. The Montana Insurance Department has been requiring that managing general agents be licensed and appointed in the same fashion as regular agents. An exception to the requirement that managing general agents be licensed as insurance agents and appointed by the companies represented, is made for supervising salaried officers, supervising salaried employees and other persons or entities controlled by the insurer provided they solicit only with, or in conjunction with, duly licensed agents of the insurer. This amendment will clarify our authority to license managing general agents and will clarify the exemption to the licensing requirement.

Section 10. 33-19-304. Information concerning previous adverse underwriting decisions. An amendment to clarify that an inquiry is necesary both when information is requested concerning a previous adverse underwriting decision and when information is requested concerning coverage obtained through a residual market mechanism. The statute as formerly written resulted in some confusion because it was not clear that an inquiry was necessary under subsection 1 as well as under subsection 2.

Section 11. 33-20-1210. Amendment to provide that the amount of an individual policy provided upon termination of a group life policy may be limited to the smaller of 10,000 or the amount of protection ceasing because of the termination or amendment of the policy less the amount of life insurance for which the policyholder becomes eligible within 31 days. The prior wording stated "the amount of such individual policy may not exceed the smaller of (1) the amount of the person's life insurance protection ceasing because of termination or amendment of the group policy, less the amount of any life insurance for which he is or becomes eligible

under any group policy issued or reinstated by the same or another insurer within 31 days after such termination and (2) 10,000. The word "or" makes sense in conjunction with the words "smaller of" and we have been interpreting this section as if it said "or".

Section 12. 33-22-229. Conformity with state statutes. Amendment to make conformity of policy provisions; to state statutes mandatory.

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LEGIS-GCB-IL1,2,3,4,5

Section 7 33-17-102

(1)(c) Public adjuster means an adjuster employed by and representing the interests of the insured. No person or entity shall act as a public adjuster in this state.

POSITION OF AMERICAN COUNCIL OF LIFE INSURANCE ON MONTANA H.B. 465

Statement of Position

H.B. 465 proposes a number of changes to the Montana Insurance Code and, for the majority of those changes, the Council appears as a proponent. With respect to one change, the Council urges that either the change not be made or that substitute language be inserted. This recommendation concerns Section 1 of the bill which would amend Section 33-1-501 of the Montana Insurance Code. The Council submits that the modification proposed in lines 3 and 4 of page 2 of the bill not be made.

Analysis

The modification proposed on page 2 of the bill would require that any certificate of insurance delivered or issued for delivery in Montana would have to be filed with and approved by the Montana Insurance Commissioner. Curiously, Subsection 6 of Section 33-1-501, MCA, exempts "policies or contracts not issued for delivery in this state or delivered in this state" from the form filing requirement. The result of these two provisions is that an insurance company would be able to issue a group contract in another state without seeking any prior approval by the Montana Insurance Department; however, the certificates of insurance which summarize parts of that group contract would have to be filed with the Montana Department if one such certificate were to be delivered in Montana. Such a requirement is far more onerous than may appear at first blush.

The standard practice of insurance companies issuing group contracts is to provide the certificates describing that contract to the employer/policyholder. (In fact, Insurance Codes expressly provide for this practice. See Section 33-20-1208, MCA.) The employer then assumes the responsibility for providing the certificates to all employees covered under the group plan. Let us consider the following situation which is not uncommon to group contracts:

> Insurance Company A located in Minnesota issues a group contract to Company B located in South Dakota. The group contract would have to be filed with and approved by the South Dakota Insurance Department. Insurance Company A sends the certificates of insurance to Company B for distribution to Company B's covered employees. Company B has a field office in Billings, Montana, which is staffed by three employees, each of whom is covered by the group contract and each of whom receives a certificate of insurance.

Should H.B. 465 become law, the three certificates in the above example would have to be filed with and approved by the Montana Insurance Department. That insurance department has no jurisdiction over the contents of the master policy and since the certificates are distributed by the employer, Insurance Company A has no way of knowing that three certificates were distributed by the employer to employees in Montana. Should this situation be repeated

hundreds of times, the only alternative available to insurance companies is to submit every group certificate to the Montana Department for approval. It is difficult to imagine any benefit which would be derived by this practice and the disadvantages would include additional administrative expense for both the Department of Insurance and the insurance companies.

Presumably, the Department would review each certificate before approving that form. However, the parameters of that review are completely undefined since the Montana Insurance Department would have no control over the contents of the group policy. The contents of the certificate (which are based upon the policy) would also be beyond the Department's jurisdiction. Since the insurance company has no obligation to file the group contract in Montana, the Department would be unable to compare the certificate with the policy. In short, this bill would present substantial economic burdens to both insurers and to the state without any demonstrable advantage to the Montana consumer.

Alternative

The Council certainly recognizes that there may be occasions when the Department may on a case-by-case basis wish to examine a group insurance certificate. In order to grant the Department this authority without becoming entangled in an administrative jungle, the following language could be inserted as Subsection 7 of Section 33-1-501, MCA, and as a substitute for the proposed change in the first sentence of that section:

INSERT following at p 4, line 8 as a new subsection (7).

"(7) As to group insurance policies effectuated and delivered outside this state, but covering persons resident in this state, group certificates which are delivered or issued for delivery in this state shall be filed with the commissioner upon his request."

The Council suggests that the use of this alternative language would provide the insurance department with sufficient authority to examine certificates of insurance while avoiding a burdensome and costly procedure which would provide little benefit to the citizens of Montana.

March 21, 1983

SENATE STANDING COMMITTEE REPORT
(Business & Industry)

That Statement of Intent be added to House Bill No. 465

A statement of intent is required for this bill because it delegates rulemaking authority to the insurance commissioner to adopt rules regarding public adjusters. It is the intent of the Legislature that rules adopted by the commissioner be aimed at protecting the consumer who chooses to use the services of a public adjuster. The rules should provide for an examination prior to licensing to ensure the competency of the adjuster. The rules may also provide regulation and bonding requirements to ensure that the consumer contracting with the public adjuster is protected in the event the public adjuster does not fulfill his contractual obligation to the consumer.

March 21, 1983

SENATE STANDING COMMITTEE REPORT
(Business & Industry)

That House Bill No. 465 be amended as follows:

1. Title, line 10.
Following: "WRITTEN;"
Strike: Remainder of line 10 through line 11 in its entirety.

2. Title, line 14.
Following: "ORGANIZATIONS;"
Insert: "DEFINING AND PROVIDING FOR THE REGULATION OF "PUBLIC ADJUSTERS";"

3. Title, line 20.
Strike: "33-2-707,"

4. Page 2, line 4.
Following: line 3.
Insert: "form of renewal"
Strike: "of insurance"

5. Page 4, line 9.
Following: Line 8.
Insert: "(7) As to group insurance policies effectuated and delivered outside this state, but covering persons resident in this state, group certificates which are delivered or issued for delivery in this state shall be filed with the commissioner upon his request."

6. Page 11, lines 11 through 22.
Strike: Section 4 in its entirety.
Renumber: subsequent sections

7. Page 13, line 25.
Following: Line 24.
Insert: "(c) A "public adjuster" is an adjuster employed by and representing the interests of the insured. The commissioner may adopt rules providing for the examination, licensure, bonding and regulation of public adjusters."

8. Page 17, line 21.
Following: "decision"
Insert: "and the individual is advised of the source of the information"

9. Page 18, line 2.
Following: "mechanism"
Insert: "and the individual is advised of the source of information"

STATEMENT OF INTENT

HOUSE BILL 465

A statement of intent is required for this bill because it delegates rulemaking authority to the insurance commissioner to adopt rules regarding public adjusters. It is the intent of the Legislature that rules adopted by the commissioner be aimed at protecting the consumer who chooses to use the services of a public adjuster. The rules should provide for an examination prior to licensing to ensure the competency of the adjuster. The rules may also provide regulation and bonding requirements to ensure that the consumer contracting with the public adjuster is protected in the event the public adjuster does not fulfill his contractual obligation to the consumer.

March 24, 1983

COMMITTEE OF THE WHOLE AMENDMENT

That House Bill No. 465 be amended as follows:

1. Page 13, line 4.
Following: "filing"
Insert: "together with supporting data sufficient to substantiate such filing"

2. Page 13, line 10.
Following: "data"
Insert: "and must be accompanied by supporting data"